IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

Writ Petition No.11311 of 1997

DATED 27-11-2006

BETWEEN

Bandili Masthanaiah.

.. Petitioner

And

The District Collector,

Nellore and 4 others.

…Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.11311 of 1997

ORDER:

The writ petition has been instituted seeking a writ of Mandamus declaring the action of the respondents in proceeding with the formation of the link road from Chakracharyulavari Kandriga to Pillamedu Village through the patta lands of the petitioner without conducting any enquiry and without issuing any notice to the petitioner as arbitrary and illegal.

The writ petitioner has asserted that he is the owner of the lands in an extent of Ac.0.39 cents and Ac.2.82 cents situate in Sy.Nos.5-6 and 6-2 respectively of Chakracharyulavari Kandriga, Balayapalli Mandal, Nellore District and that at the instance of the local MLA, the alignment of the road has been altered in such way as to cause hardship and loss to the petitioner as he is a harijan and he is not in a position to resist the attempts of the local MLA.

The Mandal Revenue Officer, Balaiahpally had filed a detailed counter affidavit stating that in the matter of achieving a public purpose the State administration has proposed to form a link road from Chakracharyulavari Kandriga Village to Pillamedu Village in the assigned lands. It was further asserted that a detailed enquiry and inspection of the proposed land for formation of the said link road on the eastern side of survey Nos.5-6 and 6-2 of the lands, which have been assigned in favour of the writ petitioner, has been undertaken and that after enquiry, a notice in proceedings Rc No.B.1087/96 dated 7-5-1997 has been issued to the writ petitioner and that he has not responded to the said notice and on the other hand approached this Court without showing any reason as to why the land in question should not be resumed for the purpose of formation of the link road. The counter affidavit goes on to assert that the technical study of the feasibility and cost effectiveness of the formation of the link road has been undertaken by the State and only after it is being satisfied that the formation of the link road at the proposed site is not only economical but is going to be very effective, the present proposal for formation of the link road on the eastern side of survey Nos.5-6 and 6-2 has been firmed up. The counter affidavit further goes on to assert that the writ petitioner has encroached nearly Ac.15.00 of dry land belonging to the Government and that he is trying to create hurdles for the State administration in this regard.

Though the writ petitioner has not denied the above said averments of his encroachment, made in the counter affidavit, it would be altogether a different matter with which we are not concerned in this writ petition. It is always open to the revenue administration of the State to take up such steps, which are considered necessary and appropriate for securing restoration of the government resources back to it from the hands of any encroacher/ unauthorized occupant.

The principal question centers around the proposal of the State administration for formation of the link road at the proposed site. The counter affidavit has specifically pointed out that a detailed study and enquiry had preceded the proposed formation of the link road and that only after finding it as economical and feasible, did the state administration firmed up the proposal for formation of the link road in the land in question. It is therefore clear that the decision relating to formation of the link road is a well considered decision and at any rate the High Court cannot go into the question as to the correctness or otherwise of the selection of the site for formation of the link road, for it lacks the technical knowledge in that regard. Since the writ petitioner has not substantiated his assertion of bad faith on the part of the State in choosing the site in question, no opinion can be expressed thereon in favour of the writ petitioner.

The learned Government Pleader for Revenue had stated that the State Government is willing to compensate the writ petitioner in accordance with law for such extents of land from which, he is now sought to be dispossessed for formation of the link road. Since formation of the link road is undoubtedly undertaken to sub-serve a public purpose and since the writ petitioner is otherwise going to be compensated adequately, as is now asserted by the State, the writ petition does not deserve any further consideration and the same is dismissed recording the statement made by the learned Government Pleader that the writ petitioner would certainly be compensated for the land in his occupation lawfully from which he is sought to be dispossessed for the purpose of formation of link road.

With the above observation, the writ petition stands dismissed. The interim order dated 27.5.1997 granted by this Court shall also stand vacated.

Nooty Ramamohana Rao,J

Dated 27.11.2006

msv